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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/641,646 08/18/00 CIPOLLA

A 13072

EXAMINER

QM32/0817

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ART UNIT

PAPER NUMBER

3732

DATE MAILED:

08/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Applicati n N .

09/641,646

Applicant(s)

CIPOLLA ET AL.

Examiner

John J. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claims Renumbered

This application was filed with two claims numbered 32. The examiner has renumbered the second claim 32 to be claim 33 and has renumbered original claims 33-50 to be claims 34-51 respectively.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31, 33, 50 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 31 does not include a dependency, it has been assumed to depend on claim 30. Claims 50 and 51 lack proper antecedent bases because of their dependency on claim 1. It is assumed that these claims are intended to depend on claim 49.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 10, 13, 19, 24, 25 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Jensen et al (WO 99/37236). Jensen shows a light base 32 having a curved surface and a plurality of light generating devices 40. The output light of Jensen will inherently overlap and form a combined field. As to claim 2, the overlapping light will overlap in an infinite number of surfaces including a convex surface of relatively uniform intensity.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-9, 11, 12, 14-18, 26, 32, 33, 34, 38, 40 and 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen et al (WO 99/37236). The specific intensity used is an obvious matter of choice in the degree of a known parameter for light emitting devices to one of ordinary skill in the art. As to claims 5-9, the specific type of light generating devices used is an obvious matter of choice in well known light producers to the skilled artisan. As to claim 14, to use a lens with a light emitting device is well known in the art, and therefore, an obvious matter of choice to one of ordinary skill in the art. As to claim 26, the process of assembly is an obvious matter of choice in the process used to form an obvious structure. As to claims 32 and 33, Jensen emits

visible light. As to claim 37, to call the output a lobe is an obvious matter of choice in defining a specific area of the overall light output.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen et al (WO 99/37236) in view of Kipke et al. Jensen shows the structure described above, however, does not show the use of LED's. Kipke teaches using LED's at the base. It would be obvious to one of ordinary skill in the art to modify Jensen to include the use of LED's as shown by Kipke in order to place the source in the desired location.

Claims 27, 28, 39, 41, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen et al (WO 99/37236) in view of Kipke et al as applied to claim 20 above, and further in view of Kennedy (711). The above combination does not show a cooling fan nor blue light. Kennedy teaches using a cooling fan as shown and teaches the use of blue light, column 3, line 43. It would be obvious to one of ordinary skill in the art to modify the above combination to include a cooling fan to cool the light emitters and to include the use of blue light in order to supply the desired type of light as shown by Kennedy.

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (WO 99/37236) in view of Rhoades (851). Jensen shows the structure described above, however, does not show positioning means. Rhoades teaches

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positioning means in the form of a bite block. It would be obvious to one of ordinary skill in the art to modify Jensen to include the use of positioning means as shown by Rhoades in order to position the device in the desired location.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (WO 99/37236) in view of Nikodem (854). Jensen shows the structure described above, however, does not show a flexible base. Nikodem teaches a flexible base 12. It would be obvious to one of ordinary skill in the art to modify Jensen to include the use of a flexible base as shown by Nikodem in order to position change the shape as desired.

Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (WO 99/37236) in view of Cipolla (159). Jensen shows the structure described above, however, does not show a filter for blocking light. Cipolla teaches a filter 127. It would be obvious to one of ordinary skill in the art to modify Jensen to include the use of a filter as shown by Cipolla in order to stop undesirable light, column 5, lines 27-31.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nikodem (854) in view of Cipolla (159). Nikodem shows a light source, output 12, projection means 46 and connection means 44 for connection to a light source. Nikodem does not show a mobile support. Cipolla teaches a portable light which implies a portable support. It would be obvious to one of ordinary skill in the art to modify Nikodem to

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include a portable support as suggested by Cipolla in order to move the light to the desired location.

Claims 50 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nikodem (854) in view of Cipolla (159) as applied to claim 49 above, and further in view of Fuller et al. The above combination does not show wheels nor an articulated arm. Fuller teaches using wheels 31, column 2, lines 25-30, and an articulated arm 176, column 5, lines 6-25. It would be obvious to one of ordinary skill in the art to modify the above combination to include the use of wheels in order to better move the device and to include an articulated arm in order to better position the light in use as shown by Fuller.

Claims 1-26, 29, 32-34, 38, 40 and 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterwalder et al. Osterwalder shows a base 36 and light emitting devices 32 in a curved arc. To define the area of light output from Osterwalder that covers overlapping lobes to form a combined field is an obvious matter of choice in looking at a specific area of light output to one of ordinary skill in the art. The specific intensity used is an obvious matter of choice in the degree of a known parameter for light emitting devices to one of ordinary skill in the art. As to claims 5-9, the specific type of light generating devices used is an obvious matter of choice in well known light producers to the skilled artisan. As to claim 14, to use a lens with a light emitting device is well known in the art, and therefore, an obvious matter of choice to one of ordinary

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skill in the art. As to claim 26, the process of assembly is an obvious matter of choice in the process used to form an obvious structure.

Claims 27, 28, 39, 41, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterwalder et al in view of Kennedy (711). Osterwalder does not show a cooling fan nor blue light. Kennedy teaches using a cooling fan as shown and teaches the use of blue light, column 3, line 43. It would be obvious to one of ordinary skill in the art to modify Osterwalder to include a cooling fan to cool the light emitters and to include the use of blue light in order to supply the desired type of light as shown by Kennedy.

Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterwalder et al in view of Rhoades (851). Osterwalder does not show positioning means. Rhoades teaches positioning means in the form of a bite block. It would be obvious to one of ordinary skill in the art to modify Osterwalder to include the use of positioning means as shown by Rhoades in order to position the device in the desired location.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osterwalder et al in view of Nikodem (854). Osterwalder shows the structure described above, however, does not show a flexible base. Nikodem teaches a flexible base 12. It would be obvious to one of ordinary skill in the art to modify Osterwalder to include the

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use of a flexible base as shown by Nikodem in order to position change the shape as desired.

Claims 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osterwalder et al in view of Cipolla (159). Osterwalder shows the structure described above, however, does not show a filter for blocking light. Cipolla teaches a filter 127. It would be obvious to one of ordinary skill in the art to modify Osterwalder to include the use of a filter as shown by Cipolla in order to stop undesirable light, column 5, lines 27-31.

Drawings

The drawings are objected to because hand written numbers cannot be used, see Fig. 6 on. Correction is required.

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Conclusi n

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaye shows a curved light array 36, Fig 2, to focus light.

Any inquiry concerning this communication should be directed to John Wilson at telephone number (703) 308-2699.

John J. Wilson
Primary Examiner
Art Unit 3732

jjw

Date

Fax (703) 308-2708

Work Schedule: Monday through Friday (flex time)